

REMARKS

Disposition of the Claims

Claims 1-7 were pending as of the present Office Action, which sets forth a restriction requirement under 35 U.S.C. 121 and a requirement for an election of species under 35 U.S.C. 121.

Restriction Requirement

The restriction requirement set forth in the present Office Action requires an election of a single one of the following groups of claims:

- I. Claims 1-6; and
- II. Claim 7.

Applicant hereby elects group I (claims 1-6) without traverse.

Election of Species

The requirement for an election of species set forth in the present Office Action requires an election of a single species from the following:

- Species 1: Figures 1-4;
- Species 2: Figures 5-7; and
- Species 3: Figures 8-10.

Applicant hereby elects species 1 (Figures 1-4) with traverse. Claims readable on elected species 1 are claims 1-6. Of those, claims 1-6 are generic to species 1, 2, and 3.

Presently, as stated above, all of the elected claims 1-6 are clearly generic to species 1-3. Thus, no species claims are present. The MPEP sets forth the following guidelines for this situation:

In all applications in which **no species claims are present and a generic claim recites such a multiplicity of species that an unduly extensive and burdensome search is required**, a requirement for an election of species should be made prior to a search of the generic claim.¹

At the same time, 37 C.F.R. 1.141(a) provides an applicant “more than one species of an invention, not to exceed a reasonable number.” Thus, a requirement for an election of species should be made if there is such a number of species so as to require an unduly extensive and burdensome search, the number of species being more than one not exceeding a reasonable number. In the present case there are three species, a number that clearly falls within the guidelines set forth by 37 C.F.R. 1.141(a), which is therefore not such a multiplicity of species that an unduly extensive and burdensome search is required. Accordingly, the present requirement for an election of species is improper and should be withdrawn.

CONCLUSION

In view of the foregoing remarks, this application is considered to be in condition for allowance, and an early reconsideration and a Notice of Allowance are earnestly solicited.


If an extension of time is required to enable this document to be timely filed and there is no separate Petition for Extension of Time filed herewith, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) for a period of time sufficient to enable this document to be timely filed. Any other fee required by this document, other than the issue fee, and not submitted herewith should be

¹ MPEP 808.01a (8th ed.)(emphasis added).

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Respectfully submitted,

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